IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 21962 of 2004

Between:

M/s. Shriram City Union Finance Limited, Branch at 6-4-3, Sumanrasi, T. Nagar, Rajahmundry, Rep. by its Branch Manager Sri K. Bhaskar, S/o. Sri Ramakrishna

..... PETITIONER

AND

1 The Regional Transport Officer Vijayawada, Krishna District.
2 Smt. Vasi reddy varalakshmi, W/o. Late Mahadev Tagaore
R/o. Jayanthipuram, Near Jaggaiahpet, Krishna District.
3 S. Srinivas, S/o. Sri Butchi Raju,
R/o. 6-1177/1, Opp: Annapurna Theatre, Jaggaiahpet, Krishna District.
4 Vasireddy Thapovardhan, S/o. Late Mahadev Tagore,
R/o. Ocean Drive Layout, Visakhapatnam - 43

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the first respondent in passing impugned proceedings Rc.No. 20429/B2/2003 dt. 16-9-2003 pertaining to vehicle bearing No. AP 16X 0416 titled as "Show Cause Notice" without affording an opportunity to the petitioner company as illegal, arbitrary and in violtion of principles of natural justice and further set aside the order dt. 16-9-2003 vide Rc.No. 20429/B2/2003 passed by the first respondent.

Counsel for the Petitioner: MR.C.RAGHU

Counsel for the Respondent No.1: GP FOR TRANSPORT

The Court made the following :

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ORAL ORDER:

This writ petition is filed seeking a Mandamus to declare the action of the 1st respondent in issuing proceedings R.No.20429/B2/2003, dated 16.9.2003 pertaining to vehicle bearing No.AP16 X 0416 titled as “Show Cause Notice” without affording any opportunity to the petitioner-company as illegal and arbitrary.

The learned counsel for the petitioner has contended that before passing the impugned order, dated 16.9.2003, neither notice was served nor any opportunity was given to the petitioner, and the noting of the Hire Purchase agreement with the petitioner was cancelled. Hence, he prays to set aside the impugned order.

The learned counsel for the 4th respondent has contended that the step mother of the 4th respondent has played fraud by interpolating the certificate and he has made a lawful gain depriving the other legal heirs of their legal shares. The alleged business is not within the knowledge of the respondents and the petitioner is not entitled to be issued any notice and hence, he prays to dismiss the petition.

The learned Government Pleader for Transport appearing for the 1st respondent has opposed the same on the ground that it is only a show cause notice for which the respondents and the petitioner as well can submit an application.

As seen from the show cause notice, though it is termed as “Show Cause Notice”, it is clear that noting of Hire Purchase agreement with the petitioner has been cancelled. The 3rd respondent was directed to surrender all the relevant records of the vehicle bearing No.AP16X 416 to the office for endorsing the above proceedings. Therefore, when the notice for the petitioner’s endorsement on the Hire Purchase agreement has been cancelled, it cannot be a show cause notice. It is a case where the 1st respondent, without following the principles of natural justice, passed the impugned proceedings, which, in my considered opinion is liable to be set aside.

Without expressing any opinion with regard to the merits of the case, the matter is remanded to the 1st respondent for taking appropriate decision after affording reasonable opportunity to the petitioner and the unofficial respondents 2 to 4 and thereafter, appropriate orders shall be passed in accordance with the provisions of the Motor Vehicles Act, 1988 within a period of eight weeks from the date of receipt of a copy of this order. It is also made clear that the impugned order shall be considered a Show Cause Notice so that the petitioner as well as the respondents 2 to 4 shall give their explanation within a period of two weeks from the date of receipt of a copy of this order.

With the above observation, the writ petition is disposed of. In the circumstances of the case, there shall be no order as to costs.

(K.C. BHANU, J.)

5th April, 2005

bcj

To

1 The Regional Transport Officer Vijayawada, Krishna District.
2 Two C.Cs. to the Government Pleader for Transport, High Court Buildings, Hyderabad (OUT)

3 Two C.D. copies